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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 UNITED STATES OF AMERICA,) Case No.: CR 15-00106 EJD
18 Plaintiff,)
19 v.) [PROPOSED] ORDER REVOKING BOND,
20 HAO ZHANG,) RELEASING SURETIES, AND ISSUING WRIT
21 Defendant.) AND ARREST WARRANT
22) Date: July 21, 2015
23) Time: 1:30 p.m.
24) Court: Hon. Nathanael Cousins

25
26 INTRODUCTION

27 The defendant, HAO ZHANG, stands charged by indictment with violations of 18 U.S.C. §
28 1831(a)(5) – Conspiracy to Commit Economic Espionage; 18 U.S.C. § 1832(a)(5) – Conspiracy to
Commit Theft of Trade Secrets; 18 U.S.C. § 1831(a) – Economic Espionage; and 18 U.S.C. § 1832(a) –
Theft of Trade Secrets. A sealed arrest warrant was issued under this case for this defendant on April 1,
2015.

29
30 FACTUAL BACKGROUND

31 The defendant is a resident and citizen of the People's Republic of China who entered the United
32 States and was arrested at the Los Angeles International Airport on May 16, 2015. That same day, the
33 ORDER REVOKING BOND [PROPOSED]
34 CR-15-00106 EJD

1 Department of Homeland Security (“DHS”) issued an Immigration Detainer (see attached Exhibit 1) for
 2 the defendant. The defendant was ordered detained by a United States Magistrate Judge in the Central
 3 District of California, who also ordered that he be transported to San Jose to face the charges.

4 After re-opening the issue of detention and holding several hearings, the Court ultimately
 5 ordered the defendant’s release on conditions (see Doc. 24). On July 8, 2015, the Court issued a
 6 Supplemental Release Order (“SRO”) specifically designed to return the defendant into the United
 7 States Marshal’s custody if it appeared the defendant might be deported or otherwise administratively
 8 removed from the United States as a result of the Immigration Detainer (see Doc. 23).

9 The defendant was taken into DHS custody under the authority of the Immigration Detainer and,
 10 on July 13, 2015, was issued a Notice and Order of Expedited Removal (“ERO”) (see attached Exhibit
 11 2), which ordered his removal from the United States.

12 **THE SUPPLEMENTAL RELEASE ORDER**

13 The SRO contained language to address the very situation presented here:

14 On the other hand, if Mr. Zhang is not allowed bail in the administrative
 15 removal proceeding within ninety (90) days of being taken into DHS
 16 custody, defense counsel shall immediately notify government counsel. In
 17 that event, upon submission of a proposed order by the government or
 18 defense counsel, this Court will revoke the bond, release the sureties from
 19 their obligations, and issue an appropriate writ and arrest warrant directing
 20 the United States Marshal to take the defendant back into custody.

21 By the same token, if an immigration court orders the defendant deported
 22 or removed from the United States, or if there is any other event in the
 23 administrative proceeding that might result in the defendant’s removal
 24 from the United States, defense counsel shall immediately notify
 25 government counsel¹. In that event, upon submission of a proposed order
 26 by the government or defense counsel, this Court will revoke the bond,
 27 release the sureties from their obligations, and issue an appropriate writ
 28 and arrest warrant directing the United States Marshal to take the
 defendant back into custody.

(Doc. 23, 3-4).

Clearly, the ERO constitutes an “event in the administrative proceeding that might result in the

¹ Defense counsel have not yet contacted government counsel to advise us of the ERO.

1 defendant's removal from the United States," and so triggers the bond revocation language of the SRO.
2 Indeed, the defendant's "risk" of non-appearance has now become, absent intervention by this Court, a
3 "certainty" of non-appearance.

4 **ORDER**

5 Based upon the facts presented in the course of several court sessions constituting the detention
6 hearing, as well as those facts stated in this Order, it is hereby ORDERED that:

- 7 1. The bond set in the above-captioned case is revoked;
- 8 2. The sureties are released from any and all obligations under the bond;
- 9 3. An arrest warrant and writ to produce the defendant shall issue from this Court;
- 10 4. The United States Marshals Service shall take the defendant into custody without
11 delay and bring him back before this Court;
- 12 5. Defense counsel shall deliver any passports or other travel documents of the
13 defendant that are presently in, or come into, their possession directly to the Court.

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15 IT IS SO ORDERED.

16 Dated:

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18 NATHANAEL COUSINS
19 United States Magistrate Judge
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